



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 4, 1998

Ms. Stephanie M. Berry
Assistant City Attorney
City of Denton
215 East McKinney
Denton, Texas 76201

OR98-1834

Dear Ms. Berry:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 117245.

The City of Denton (the "city") received a request for various information relating to the requestor. You state that some of the requested information is not contained in any city records. The Open Records Act does not require a governmental body to make available information which does not exist nor does it require a governmental body to prepare new information. *Economic Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.--San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 (1992), 362 (1983). However, a governmental body must make a good faith effort to relate a request to information which it holds. Open Records Decision No. 561 (1990). You state that the city has six offense reports involving the requestor or his business. You state that three of the offense reports will be released. However, you claim that the remaining offense reports contain information which is excepted from disclosure under sections 552.108 and 552.111 Government Code. We have considered the exceptions you claim and have reviewed the documents at issue.

Section 552.108, the "law enforcement exception," provides in relevant part as follows:

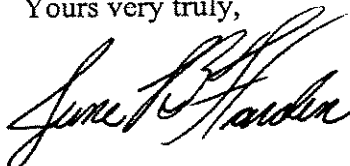
(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of 552.021 if: (1) release of the information would interfere with the detection, investigation or prosecution of crime; [or] (2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]

A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. You state that the investigations are closed and the cases did not result in conviction or deferred adjudication. We conclude that you have shown the applicability of section 552.108(a)(2) to the submitted information.

You also seek to withhold the identity of the complainant in Exhibit 2. We note that the identification and description of a complainant is considered basic information. Gov't Code § 552.108(c); *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Absent special circumstances, basic information is not excepted from required public disclosure. See Open Records Decision Nos. 297 (1981), 169 (1977). You have not informed us of any extenuating circumstances that would necessitate the withholding of the complainant's identifying information. Therefore, except for basic information, the city may withhold the remaining offense reports from disclosure.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



June B. Harden
Assistant Attorney General
Open Records Division

JBH/ch

Ref.: ID# 117245

Enclosures: Submitted documents

cc: Mr. Stephen Probst
2715 Robinwood Lane
Denton, Texas 76201
(w/o enclosures)